



MEMORANDUM

TO: District Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: June 8, 2010

SUBJECT: BZA Case No. 18072 – Request for a special exception pursuant to § 223 and area variances from §§ 402.4 (and associated relief from 2001.3(b)(2)), 2300.2(b), and 2500.3 to construct a one-story detached accessory garage at 2745 Macomb Street N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the following relief requests to permit a new one-story detached accessory garage behind an existing single family dwelling:

- Special exception relief for an addition to a one-family dwelling (§ 223) to allow a lot occupancy of 47% (40% permitted);
- Area variance relief from the maximum FAR (§ 402.4) (and associated relief from § 2001.3(b)(2)) to allow an FAR of 1.03 (0.9 FAR permitted);
- Area variance from the minimum setback from an abutting alley (§ 2300.2(b)) to allow a setback of 7.5' (12' required);
- Area variance from maximum occupied area restrictions for the required rear yard (§ 2500.3) to allow 37% rear yard occupancy (30% permitted).

II. AREA AND SITE DESCRIPTION:

Address:	2745 Macomb Street NW
Legal Description:	Square 2218, Lot 1
Ward/ANC:	3/3C
Lot Characteristics:	The subject lot (hereinafter, the "Property") is rectangular in shape and measures 34' in width by 90' in length, totaling 3,060 square feet. The Property fronts Macomb Street N.W. to the south and an improved 15' wide public alley to the north. There is a 15' building restriction line on the Property's Macomb Street side.
Zoning:	R-5-A: all types of urban residential uses
Existing Development:	The Property is improved with a 2.5 story semi-detached dwelling, which is a permitted use in this zone. Wooden beams of a partially constructed garage are visible at the rear of the Property.
Historic District:	Cleveland Park Historic District
Adjacent Properties:	To the west of the Property is an adjoining semi-detached single family dwelling. To the east of the Property is a detached single family dwelling with a rear garage bordering the alley. To the north of the Property, across the alley, are four-story garden apartment buildings with a row of angled surface parking along the alley. To the south, across Macomb Street, are three-story apartment buildings.



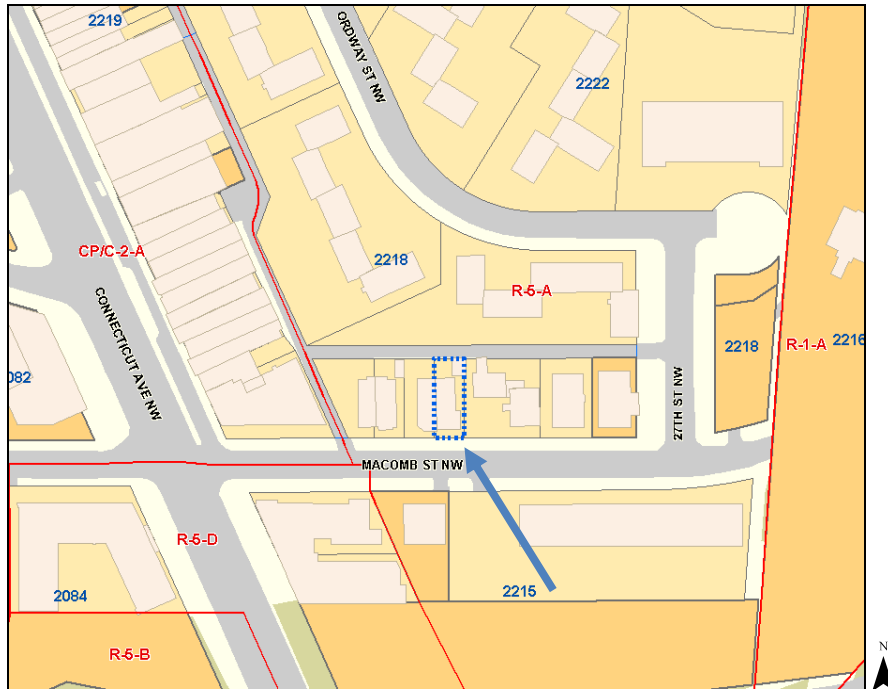
Surrounding Neighborhood Character:	The Square is comprised of a mix of commercial and residential uses. Mostly one-story commercial buildings line the west side of the Square along Connecticut Avenue N.W. Garden apartments front Ordway Street N.W. on the north side of the Square. Single family detached dwellings generally line Macomb Street along the Square's south side.
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III. PROJECT DESCRIPTION IN BRIEF

Applicant	Juliet Eilperin
Proposal:	<p>The application proposes to construct a one-story detached accessory garage opening onto an improved 15' wide alley. It would measure approximately 19'10" in length, 12'8" in width, and have a footprint of about 244 square feet.¹ The top of its sloped roof would be approximately 13'10" high. The garage would be flush against the eastern property line.</p> <p>The garage would increase the Property's lot occupancy to 47%, although only 40% coverage is permitted by right in an R-5-A zone. The floor area ratio (FAR) of the site would increase to approximately 1.03 FAR, exceeding the permitted 0.9 FAR. The garage also would be located near the alley's edge and set back about 7.5' from the alley centerline (even though 12' is required).</p> <p>The proposed garage would be located in substantially the same spot as a once-standing structure on the site. More than a year ago, a dilapidated garage measuring approximately 374 square feet, which was existing at the time the Applicant purchased the Property, was removed with the intention of replacing it with a smaller and more modern structure. Following the removal of the original garage and the partial construction of the replacement garage, work was halted by the Department of Consumer and Regulatory Affairs (DCRA) due to the lack of proper permits.</p>
Relief Sought:	<p>§ 223 – special exception § 402.4 (and associated relief from § 2001.3(b)(2)) – area variance to the maximum FAR for addition to a non-conforming structure § 2300.2(b) – area variance for relief from the minimum setback for accessory buildings from the alley centerline § 2500.3 – area variance from the maximum coverage of the required rear yard</p>

IV. IMAGES AND MAPS

¹ The Applicant has revised the original submission square footage of 251 square feet.



Aerial view of the site



View of the rear of the site looking south across the alley



Photo of the original garage (provided by Applicant)



Photo of the partially constructed garage (provided by Applicant)

V. ZONING REQUIREMENTS

Accessory garages are generally permitted in R-5-A districts. The following table, which reflects information supplied by the Applicant, summarizes certain zoning requirements for the project and the relief requested.

R-5-A Zone	Regulation	Existing	Proposed	Relief
Floor area ratio (gfa/lot area) § 402 and § 2001.3	0.9 max.	0.94	1.03	Relief needed: exceeds the permitted FAR by ~ 387 sq. ft.
Lot occupancy (ft.) § 403	40% max. 70% by special exception	39%	47%	Relief needed: exceeds the permitted maximum by ~ 203 sq. ft.
Rear yard (ft.) § 404	20' min.	20'	20'	None required
Parking spaces (number) § 2101	1 min.	1	1	None required
Setback from alley centerline (ft.) § 2300.2	12' min.	-	7.5'	Relief needed: the garage would be set back ~ 4.5' less than required
Accessory structure in required rear yard § 2500.3	30% max.	-	37%	Relief needed: exceeds the permitted maximum by ~ 47 square feet
Height (ft.) § 2500.4 (accessory garage)	15' and 1 story max.	-	13' 10" and 1 story	None required

Special Exception: § 223

§ 223.1 An addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, or a new or enlarged accessory structure on the same lot as a one-family dwelling or flat, shall be permitted even though the addition or accessory structure does not comply with all of the requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

Private garages in accessory buildings are permitted in R-5-A zones. The Applicant is requesting special exception relief under § 223 to construct a detached garage that does not comply with the requirement of lot occupancy. The accessory garage, in addition to the existing dwelling, would create a lot occupancy of 47%,

which would exceed the permitted lot occupancy for a dwelling in an R-5-A district (40%) but comply with the 70% limitation under § 223.3.

§ 223.2 *The addition or accessory structure shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property; in particular:*

(a) *The light and air available to neighboring properties shall not be unduly affected.*

The light and air available to neighboring properties should not be unduly affected by the proposal. The garage would be restrained in size, with dimensions only slightly larger than the size of a legal parking space (see § 2115.1) and a height of less than 14'.² The proposed garage would be flush against the property to the east (2739 Macomb Street NW), which itself has an existing rear garage. Similarly, the garage would be located more than 20' away from the neighbor to the west (2747 Macomb Street) and therefore have little impact. The Applicant has provided to OP emails from both abutting neighbors (2739 and 2747 Macomb Street) that indicate support for the proposal. The proposal also should have little effect on the four-story garden apartments to the north, which are located across an alley and a considerable distance away from the proposed garage.

(b) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.*

The garage is not likely to have an undue impact on the privacy of use and enjoyment of neighboring properties. The garage would only be one-story and would not have windows on its east or west side.

(c) *The addition or accessory structure together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage*

The addition would likely be partly visible from Macomb Street and fully visible from the rear alley. The garage would not be inconsistent with the character, scale, and pattern along the alley, where a nearby garage and carport already exist.

(d) *In demonstrating compliance with (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and view from public ways.*

The Applicant has provided photos, elevation drawings, and a site plan showing the relationship of the proposed addition to adjacent buildings and views from public ways.

Area Variances: §§ 402.4 (and associated relief from 2001.3(b)(2)), 2300.2(b), and 2500.3

The area variance requirements pursuant to § 3103 to be met are as follows:

1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?

The Property exhibits an exceptional condition. Near the end of 2008, the Applicant hired a contractor to replace an existing dilapidated garage with a new smaller structure. As with the old garage, the new structure would be located at the northeast corner of the Property along the rear alley. According to the Applicant's submissions, the old garage occupied approximately 374 square feet of the rear yard, whereas the new garage

² Section 2115.1 requires a parking space to be a minimum of 9' in width by 19' in length.

would be about 130 square feet smaller. After the old garage was removed and construction had begun on its replacement, the project was halted by DCRA due to lack of proper permits. The Applicant represents, and provides documentary support, that she was unaware of a permit deficiency and that she fired the contractor as a result. Had the proper permits been obtained, OP understands that it is likely that no zoning relief would have been needed for the project. Under the proposal, the garage would have become more conforming (due to the smaller size) to the zoning regulations than what it replaced.³ But because of the removal of the old garage, the lack of proper permits, and the passage of time, the Applicant apparently lost any “grandfathered” rights and must now seek relief before the BZA.

2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?

The exceptional situation imposes a practical difficulty which is unnecessarily burdensome to the Applicant. Each component of relief is discussed below:

- § 402.4 (and associated relief from 2001.3(b)(2)) – relief from the FAR maximum for an addition to a non-conforming structure

The Applicant is proposing to increase slightly the existing non-conforming floor area ratio of the site. Typically, OP would be concerned about a request for relief from FAR maximums. In this case, however, the Applicant has represented and provided documentary support that the contractor failed to obtain the needed permits unbeknownst to the Applicant. OP also understands that it is likely that no zoning relief would have been needed had the permits been appropriately obtained. In addition, the new garage would be more conforming to the zoning regulations than the predecessor garage, which was torn down in the recent past. The existing dwelling, which was originally constructed in 1908, predates the adoption of the 1958 zoning regulations. It has an FAR of approximately 0.94 while only 0.9 FAR is permitted in R-5-A districts. The garage would increase the FAR to about 1.03. OP estimates that, prior to the removal of the old garage, the site had a 1.07 FAR.

- § 2300.2(b) – relief from minimum setback for accessory buildings from alley centerline

The proposed garage would be located near the edge of the abutting 15’ wide alley. As such, the garage would be set back approximately 7.5’ from the alley centerline, which is less than the required minimum 12’ setback. The proposed garage would have about the same setback distance as the predecessor garage. The Applicant has indicated that it would be practically difficult to strictly comply with the required setback. The location of the garage is limited by features such as the location of the century old house on the Property and existing trees in the rear yard. The proposed location of the garage would also be generally aligned with existing structures on neighboring properties, including a carport at 2749 Macomb Street (two dwellings to the west) which received zoning relief from the alley setback regulation, and a garage at 2739 Macomb Street.⁴

- § 2500.3 – relief from the maximum required rear yard coverage

According to the DCRA referral letter, the garage would occupy 37% of the required rear yard. Accessory buildings are only permitted 30% coverage. The garage design aims to occupy a minimal amount of the rear yard in order to provide a functional vehicular garage. The size of the proposed garage would be 12’8” by 19’10”, which is only slightly larger than the minimum dimensions for a legal parking space per §

³ The Applicant also could have modernized the original garage as allowed under § 2001.2, thereby retaining a larger non-conforming structure without any need for zoning relief.

⁴ See Application No. 11879 of George Battley (1975).

2115.1.⁵ The proposed garage would also occupy approximately 130 square feet less of the required rear yard than the predecessor garage. Complying with the required rear yard restriction would constrict the Applicant's ability to construct a garage of a useful size.

3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

Granting the variance relief should not cause substantial detriment to the public good. The structure is restrained in size and consistent with other structures along the alley. Abutting neighbors to the east and west have expressed support for the proposal, as has the ANC. Further, relief could be granted without substantial detriment to the Zoning Regulations and Map, as detached accessory garages are permitted uses in R-5-A Districts and the proposed garage should not hinder any alley movement.

VI. AGENCY COMMENTS

The Historic Preservation Office (HPO) already has approved the proposed design. DDOT has informally indicated to OP that it has no objections to the proposed setback.

VII. COMMUNITY COMMENTS

ANC 3C unanimously voted to support the proposal. OP has reviewed emails expressing support for the proposal from abutting residential neighbors at 2739 Macomb Street and 2747 Macomb Street. OP has not received any letters in opposition to the proposal.

VIII. RECOMMENDATION

The Office of Planning **recommends approval** of the special exception and area variance relief to construct a one-story detached accessory garage needing the following relief:

- Special exception relief for an addition to a one-family dwelling (§ 223);
- Area variance for an addition to a non-conforming structure (§ 402.4 and associated relief from § 2001.3(b)(2));
- Area variance from the minimum setback from the center of an abutting alley (§ 2300.2(b));
- Area variance from maximum occupied area restrictions for the required rear yard (§ 2500.3).

JS/pg
Paul Goldstein, case manager

⁵ Section 2115.1 requires a parking space to be a minimum of 9' in width by 19' in length.